

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X 22md3043 (DLC)
: 22mc3043 (DLC)
IN RE: Acetaminophen - ASD-ADHD :
Products Liability Litigation : ORDER: SCHEDULING MASTER
: COMPLAINTS, SFCs, AND
-----X MOTIONS TO DISMISS

DENISE COTE, District Judge:

A December 2, 2022 Order set a schedule for filing the Master Complaints, Short Form Complaints ("SFC"), and motions to dismiss. (22MC3043: ECF No. 23) The Court thereafter directed the parties to confer and to submit a proposed order regarding additions to the December 2 Order. Having reviewed the parties' submissions of December 9, it is hereby

ORDERED that:

1. Plaintiffs shall file two Master Complaints by December 16, 2022: one naming the Retailer Defendants and the other naming Johnson & Johnson Consumer Inc. ("JJCI"). These Master Complaints shall apply to all cases presently pending in this MDL against the aforementioned defendants, and to all actions against defendants that have been or will in the future be filed directly in or transferred to this MDL.¹

¹ To the extent an additional defendant, tier of defendants, or additional manufacturing defendants are added to this litigation, the parties shall meet and confer as to whether any additional Master Pleadings are necessary.

2. Any plaintiff whose action is pending in this MDL as of December 16, 2022 shall be deemed to have filed his or her Complaint as to the defendant(s) named in his or her Complaint as of the date he or she filed his or her original Complaint and not the date of the filing of the Master Complaints or the SFCs.

3. Plaintiffs shall file a proposed model SFC by December 16, 2022. The parties shall thereafter confer regarding the model SFC. The parties shall by January 4, 2023 submit a proposed order governing the use of SFCs in the MDL, a model SFC, or competing proposals with letters describing the grounds for any disagreements.

4. Following filing of the Master Complaints, the parties shall meet and confer regarding the form and structure of any motion(s) to dismiss and by January 4, 2023 will report to the Court regarding those discussions.

5. The Court will hold a telephonic conference on **January 6, 2023** at **4:00 p.m.** regarding the model SFC and other issues covered in this Order. The parties shall use the following dial-in credentials for the conference:

Dial-in: 888-363-4749
Access Code: 4324948

The parties shall use a landline if one is available.

6. Any SFC shall be filed in the individual, member docket for the case. SFCs shall not be filed on the Master MDL Dockets

(22MD3043 (DLC) and 22MC3043 (DLC)).

7. Should a decision regarding the model SFC be reached at the January 6, 2023 conference, all plaintiffs who have cases in the MDL will be required to file their SFCs by January 20, 2023.

8. Following the Court's approval of the model SFC, any new plaintiff who files directly in this MDL pursuant to the December 2, 2022 Direct Filing Order (22MC3043: ECF No. 25), or any amendment to that Order, shall do so using the approved SFC.

9. Any plaintiff whose case is transferred into this MDL after approval of the model SFC shall file a SFC within fourteen (14) days of the case being transferred to the MDL.

10. Any plaintiff who fails to file a SFC by these deadlines may be dismissed upon motion. The parties will meet and confer regarding that motion practice and propose a process to the Court by January 4.

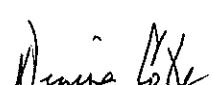
11. In the event SFCs are required to be filed by January 20, the defendants shall be required to file any motions to dismiss by February 10, 2023. Plaintiffs shall file any oppositions to the motions to dismiss by March 3, 2023. Replies, if any, shall be filed by March 17, 2023. At the time any brief is filed, the filing party shall supply Chambers with two (2) courtesy copies of its papers by mailing or delivering them to the United States Courthouse, 500 Pearl Street, New York, New York.

12. The parties shall be prepared to discuss at the

conference to be held on January 6, 2023 the extent to which any motion to dismiss shall constitute a defendant's response not only to the Master Complaint but also to any SFC to which the Master Complaint applies. A defendant who moves to dismiss shall not be required to file a Master Answer until twenty-eight (28) days after the Court rules on such a motion, or as otherwise ordered. If and when any defendant files a Master Answer, the Master Answer shall constitute that defendant's Answer to the Master Complaint and to any SFC to which the Master Complaint applies, except that a defendant's Master Answer will not waive any objections to service, jurisdiction or venue, and will not waive any defenses to any claims or issues not pleaded in the Master Complaint.

13. Nothing in this Order shall preclude any defendant from filing counterclaims, cross-claims, and/or third-party claims, as may be necessary and appropriate under the law, provided that any such claims be asserted in a manner consistent with the procedures and deadlines set forth in the Federal Rules of Civil Procedure.

Dated: New York, New York
December 9, 2022


DENISE COTE

United States District Judge